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June 14, 1993

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Our File No.
1024-101-71

Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Reference: MM Docket No. 93-51
New Albany, Indiana

Rita Reyna Brent
File No. BPH-911115MC


Dear Ms. Searcy:

Submitted herewith on behalf of Rita Reyna Brent are an original and six copies of a **Request for Leave to File Response and Response to New Matter** in the above referenced proceeding.

If there are any questions in regard to this matter, kindly communicate directly with this office.

Respectfully submitted,

RITA REYNA BRENT

By 
John Wells King
Henry A. Solomon

HAS:dh
Enclosure

Her Attorneys

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JUN 14 1993

Before The

Federal Communications CommissionFEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Washington, D.C. 20554

In The Matter Of)

MARTHA J. HUBER, *et al.*,)MM Docket No.
93-51For Construction Permit for a
New FM Station on Channel 234A
in New Albany, Indiana)TO: The Honorable Richard L. Sippel
Administrative Law Judge**Request for Leave to File Response
And Response to New Matter**

Rita Reyna Brent respectfully requests leave of the Presiding Judge to respond briefly to new allegations made in the June 11, 1993, "Reply to Opposition to Petition to Enlarge Issues" filed by Marth J. Huber. The Reply is a classic ambush that makes new allegations not previously advanced by Huber. Under the circumstances, Brent submits that leave to file a brief response is warranted.

1. Huber's transparent strategy has been to force Brent to produce the very documents that the Presiding Judge ruled were not required to be produced. *Memorandum Opinion and Order*, FCC 93M-231, released May 7, 1993.

2. Huber's Petition to Enlarge issues was premised exclusively and explicitly on the inaccurate claim that Brent did not have "on hand" the documents required by FCC Form 301. Brent's Opposition included her unequivocal Declaration that she indeed had on hand the documents

required by FCC Form 301. The Declaration is sufficient in law to overcome the claim advanced by Huber.¹

3. In Reply, Huber added the speculations whether Brent failed to review the documentation she said she had on hand; whether her financial documents were sufficiently detailed; and whether the Brents are sufficiently wealthy to possess the necessary liquid assets.

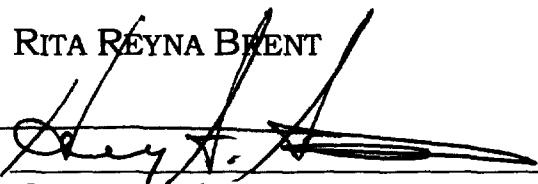
4. Brent was not obligated to prove up her financial qualifications on the pleadings. She was obligated to meet and to overcome the threshold showing of the enlargement petition. This she did.²

Accordingly, Brent renews her request that the subject Petition be denied.

Respectfully submitted,

RITA REYNA BRENT

By


Henry A. Solomon
John Wells King
Her Attorneys

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4350 North Fairfax Drive, Suite 900
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June 14, 1993

¹ Contrary to Huber's contention, no adverse inference can be drawn from Brent's decision not to attach her "Form 301" documents to her Declaration--documents that the Presiding Judge already ruled are not discoverable. The standard cited in *Washoe Shoshone Broadcasting*, 3 FCC Rcd 2948, 2953, 64 RR2d 1748, 1755 (Rev. Bd. 1988) applies to the evidentiary burden under a specified issue (there, the applicant's claim to integration credit under the standard comparative issue), not to pleadings upon a request for enlargement.

² To argue that the questions here are similar to those raised against Staton is false bait. The basis of the Staton issue was a discovery document of that applicant's. No sane reader could construe Brent's counsel's interlocutory pleading to be evidence rising to an admission against interest.

CERTIFICATE OF SERVICE

I, Dinah L. Hood, a secretary in the law firm of Haley, Bader & Potts, hereby certify that a copy of the foregoing **"Request For Leave To File Petition and Response to New Matter"** was mailed, postage prepaid